

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION**

CHRISTOPHER C. MUELLER,

Plaintiff,

No. 3:22-cv-01315-MK

v.

ORDER

ROBERT CLORE, et al.,

Defendants.

AIKEN, District Judge.

This case comes before the Court on a Findings and Recommendation filed by Magistrate Judge Mustafa Kasubhai. CF No. 46. Judge Kasubhai recommends Defendants' motion for summary judgment (ECF No. 28) should be GRANTED, and that Plaintiff's motion for leave to file an amended complaint (ECF No. 35) should be DENIED.

Under the Federal Magistrates Act, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge’s findings and recommendations, “the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."). Although no review is required in the absence of objections, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the court should review the recommendation for "clear error on the face of the record."

In this case, Plaintiff has filed objections (ECF No. 50) and Defendants have responded (ECF No. 52). The Court has reviewed Defendants' Motion for Summary Judgment (ECF No. 28); Plaintiff's Response (ECF No. 38); Plaintiff's Motion to File an Amended Complaint (ECF No. 35); Defendants' Response (ECF No. 37); all associated exhibits and declarations; and F&R, objections and responses. On *de novo* review of the F&R, the Court finds no error.

The F&R, ECF No. 46, is therefore ADOPTED. Defendants' Motion for Summary Judgment (ECF No. 28) is GRANTED. Plaintiff's Motion for Leave to File an Amended Complaint (ECF No. 35) is DENIED. In granting summary judgment, there are no issues that remain to be resolved in this case and any pending motions are therefore MOOT. The case is DISMISSED. Judgment shall be entered accordingly.

It is so ORDERED and DATED this 12th day of July 2024.

/s/Ann Aiken
ANN AIKEN
United States District Judge